



DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 212 and 228

[Docket DARS-2023-0001]

Defense Federal Acquisition Regulation Supplement; Technical Amendments

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule; technical amendment.

SUMMARY: DoD is amending the Defense Federal Acquisition Regulation Supplement (DFARS) in order to make needed editorial changes.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer D. Johnson, Defense Acquisition Regulations System, telephone 703-717-8226.

SUPPLEMENTARY INFORMATION: This final rule amends the DFARS to make needed editorial changes to 48 CFR part 212. Section 212.301(f)(vii) is amended to list the clauses in numerical order. Sections 212.503 and 212.504 are revised to list the statutory entries in numerical and alphabetical order, and add the descriptive term "(prohibits mandatory arbitration)" at the redesignated section 212.503 paragraph (vii) and section 212.504 paragraph (xiv). A typographical error is corrected at section 228.371.

List of Subjects in 48 CFR Parts 212 and 228

Government procurement.

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 212 and 228 are amended as follows:

1. The authority citation for 48 CFR parts 212 and 228 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 212—ACQUISITION OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES

2. Amend section 212.301 by—

- a. Removing paragraph (f)(vii)(C);
- b. Redesignating paragraphs (f)(vii)(A) and (B) as paragraphs (f)(vii)(B) and (C), respectively; and
- c. Adding a new paragraph (f)(vii)(A).

The addition reads as follows:

212.301 Solicitation provisions and contract clauses for the acquisition of commercial products and commercial services.

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(f) * * *

(vii) * * *

(A) Use the provision at 252.219-7000, Advancing Small Business Growth, as prescribed in 219.309(1), to comply with 10 U.S.C. 4959.

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3. Amend section 212.503 by revising paragraphs (a)(iii)

through (viii) and (c)(i) and (ii) to read as follows:

212.503 Applicability of certain laws to Executive agency contracts for the acquisition of commercial products and commercial services.

(a) * * *

(iii) 10 U.S.C. 3845, Contractor Inventory Accounting System Standards (see 252.242-7004).

(iv) 10 U.S.C. 4651, note prec. (section 855, Pub. L. 117-81), Employment Transparency Regarding Individuals Who Perform Work in the People's Republic of China.

(v) 10 U.S.C. 4656(a), Prohibition on Persons Convicted of Defense Related Felonies.

(vi) 10 U.S.C. 4753(b), Requirement to Identify Suppliers.

(vii) Section 8116 of the Defense Appropriations Act for Fiscal Year 2010 (Pub. L. 111-118) (prohibits mandatory arbitration) and similar sections in subsequent DoD appropriations acts.

(viii) Domestic Content Restrictions in the National Defense Appropriations Acts for Fiscal Years 1996 and Subsequent Years, unless the restriction specifically applies to commercial products or commercial services. For the restriction that specifically applies to commercial ball or roller bearings as end items, see 225.7009-3 (section 8065 of Pub. L. 107-117).

(c) * * *

(i) 10 U.S.C. 3703, Truthful Cost or Pricing Data (see FAR 15.403-1(b)(3)).

(ii) 10 U.S.C. 4655, Prohibition on Limiting Subcontractor Direct Sales to the United States (see FAR 3.503 and 52.203-6).

4. Amend section 212.504 by revising paragraphs (a)(i) through (xv) to read as follows:

212.504 Applicability of certain laws to subcontracts for the acquisition of commercial products and services.

(a) * * *

(i) 10 U.S.C. 2391 note, Notification of Substantial Impact on Employment.

(ii) 10 U.S.C. 2631, Transportation of Supplies by Sea (except as provided in the clause at 252.247-7023, Transportation of Supplies by Sea).

(iii) 10 U.S.C. 3321(b), Prohibition on Contingent Fees.

(iv) 10 U.S.C. 3741-3750, Allowable Costs Under Defense Contracts.

(v) 10 U.S.C. 3841(d), Examination of Records of a Contractor.

(vi) 10 U.S.C. 3845, Contractor Inventory Accounting System Standards.

(vii) 10 U.S.C. 4651, note prec. (section 855, Pub. L. 117-81), Employment Transparency Regarding Individuals Who Perform Work in the People's Republic of China.

(viii) 10 U.S.C. 4654, Prohibition Against Doing Business with Certain Offerors or Contractors.

(ix) 10 U.S.C. 4656(a), Prohibition on Persons Convicted of Defense Related Felonies.

(x) 10 U.S.C. 4753(b), Requirement to Identify Suppliers.

(xi) 10 U.S.C. 4801 note prec., Notification of Proposed Program Termination.

(xii) 10 U.S.C. 4864, Miscellaneous Limitations on the Procurement of Goods Other Than United States Goods.

(xiii) 10 U.S.C. 4871, Reporting Requirement Regarding Dealings with Terrorist Countries.

(xiv) Section 8116 of the Defense Appropriations Act for Fiscal Year 2010 (Pub. L. 111-118) (prohibits mandatory arbitration) and similar sections in subsequent DoD appropriations acts.

(xv) Domestic Content Restrictions in the National Defense Appropriations Acts for Fiscal Years 1996 and Subsequent Years, unless the restriction specifically applies to commercial products and commercial services. For the restriction that specifically applies to commercial ball or roller bearings as end items, see 225.7009-3 (section 8065 of Pub. L. 107-117).

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PART 228—BONDS AND INSURANCE

228.371 [Amended]

5. Amend section 228.371 in paragraph (b) (2) by removing “228.371-3” and adding “228.370-3” in its place.